IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal Application No.176 of 2007

Hindustran Lever Ltd. Applicant

Vs.

The State of Maharshtra & anr. Respondents

Mr.Anoop Sharma for applicant.

Mr.A.S.Shitole, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 25, 2007.

P.C.

. Heard Mr.Sharma, the learned counsel for the applicant - company. This is an application for condonation of delay in filing an application for special leave to appeal against the order of acquittal passed by the learned Judicial Magistrate, First Class at Vashi (CBD), Navi Mumbai. The applicant - company had instituted Criminal Complaint No.1492 of 2000 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and six years later i.e. on 19/1/2006 the complaint

came to be dismissed. It appears that subsequently the said order was challenged in Criminal Revision Application No.52 of 2006 and the learned Advocate for the revision applicant - company contended before the learned Sessions Judge that the revision was not maintainable.

. Be that as it may, it is to be noted that the instant application has been filed on 12th March 2007 and even with reference to the order dated 18/10/2006 passed by the learned Sessions Judge there is a delay in filing an application under Section 378(4) of Cr.P.C. Even otherwise moving a wrong forum against the order of the trial Court cannot be a reason to condone the delay.

. In the order dated 19/1/2006 the learned Judicial Magistrate, First Class noted that after about five years the plea of the accused was recorded on 2nd July 2005, inspite of the fact that the accused remained present almost every date. But surprisingly the complainant had remained absent on several dates and for years together. Six months later when the complaint came up before the trial Court after the plea was recorded, it was stated that

Mr.V.R.Shetty who had filed the complaint as the power of attorney holder had left the company's services and, therefore, the case was adjourned. In the mean while the accused prayed for dismissal of the complaint and the company presented an application on 14/11/2005 so as to seek time to bring on record another representative of the company as the complainant and hence the application filed by the accused was adjourned. However, on the third occasion neither the complainant nor its representative nor the Advocate of the Company remained present before the trial Court. It was under these circumstances the the complaint which was pending for more than five years and six months, came to be dismissed for not taking due steps and it is also pertinent to note that by the said order dated 19/1/2006 the accused was not acquitted.

. The lethargy of the company and its casual approach was not only exhibited in its attendance before the trial Court but even in approaching this Court. The applicant-company is a huge conglomerate and, there cannot be any doubt in its resources to take timely steps in the Court proceedings. To condone delay in such cases will amount to granting

premium for the casual and/or lethargic approach of the complainant and, therefore, I do not find it appropriate to allow this application.

. The application is rejected.

(B.H.MARL